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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

17 In Re *Ex Parte* Application of

18 Path Network, Inc. and Tempest Hosting, LLC,

19 Applicants.

Case No. 3:23-mc-80148-PHK

[Magistrate Judge Peter H. Kang]

JOINT [PROPOSED] ORDER

Having considered Path Network, Inc. (“Path”) and Tempest Hosting, LLC (“Tempest”) (collectively “Applicants”)’ *Ex Parte* Application for Order to Take Evidence Pursuant to 28 U.S.C. § 1782 (“Application”) and holding a hearing on August 17, 2023 to discuss the relief sought, IT IS HEREBY ORDERED that:

1. Applicants and Discord, Inc. (“Discord”; collectively, the “Parties”) are to meet and confer with respect to the following issues by August 25, 2023:

- **Appointment of a Commissioner:** The Parties are to meet and confer as to (1) whether a commissioner is truly needed in this matter, (2) what qualifications are required to serve as a commissioner in this context consistent with Section 1782 and other applicable law, (3) whether Mr. Warren meets those requirements, and, if not, (4) who, if anyone, should replace him;

- **Notice:** The Parties are to meet and confer as to whether Discord should notify Curtis Gervais and Rene Roosen of the instant proceedings under these circumstances;

- **Revised Subpoena:** The Parties are to meet and confer with respect to narrowing the terms of the proposed subpoena such that responsive documents and data do not unnecessarily implicate third parties unrelated to the litigation;

- **Stored Communications Act:** The Parties are to meet and confer to identify which requests in the proposed Subpoena seek the production of data that is covered by the Stored Communications Act such that Discord cannot produce it;

- **Protective Order:** The Parties are to meet and confer and jointly draft a protective order to apply to this case.

- **Preservation:** The Parties are to meet and confer regarding what data, in addition to the usernames below, should be preserved consistent with the Court’s request that potentially responsive data be preserved:

- cmg#8239
- Renewal#7394
- Archetype#8484

2. If the Parties are able to resolve all of the issues above, Applicants may file a renewed Application and proposed subpoena supported by a declaration or declarations detailing the meet and confer efforts and noting which issues were resolved between the Parties.

3. To the extent the Parties cannot reach agreement on one or more of these issues, they are to submit joint briefing to the Court on the unresolved issues not to exceed ten (10) pages (five (5) pages per side), by September 1, 2023.

1 4. If necessary, the Parties may submit additional responses to the initial joint
2 briefing not to exceed eight (8) pages (four (4) pages per side), by September 8, 2023.

3
4 **IT IS SO ORDERED.**

5
6 DATED: _____, 2023

By: _____
United States Magistrate Judge
Peter H. Kang